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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,950	06/29/2005	Barry Peter Liversidge	1926-00102	5292
26753	7590	08/10/2009		
ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202			EXAMINER GILBERT, ANDREW M	
			ART UNIT 3767	PAPER NUMBER
			MAIL DATE 08/10/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/518,950

**Applicant(s)**

LIVERSIDGE, BARRY PETER

**Examiner**

ANDREW M. GILBERT

**Art Unit**

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 32-36 is/are rejected.
- 7) ☒ Claim(s) 30 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Acknowledgements***

1. This office action is in response to the reply filed on 5/27/2009.
2. In the reply, the applicant amended claim 1. The examiner notes that the claim status of claims 28 and 32 are "Currently Amended" however the claims do not appear to be amended.
3. Thus, claims 1-36 are pending for examination.

***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 7/27/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8, 16-29, 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearson et al (5658259). Pearson et al discloses a safety arrangement for a medical needle having a mount end (Fig 6) and a sharp tip, which arrangement comprises: a support (30) adapted directly or indirectly to carry the mount end of a needle (34) so that the needle has a part projecting forwardly away therefrom (see Figs 1-4); a sleeve (40) mounted directly or indirectly on the support and being slideable with

respect thereto from an initial position (Fig 2) where the sleeve fully covers the projecting part of a carried needle to a retracted position (Fig 3) where the tip of a carried needle and a part of the needle back from its tip is exposed, and then to a protecting position corresponding to the initial position and where the sleeve again covers the projecting part of the needle (Fig 3; *wherein the Examiner notes that the with respect to the needle and support the sleeve in the initial position and the protecting position is in the same relative corresponding position - the only difference is that the sleeve and support are in different positions relative to the outer house - but the applicant has not claimed how the projecting position and initial position have to correspond - in this case, with respect to the needle the sleeve has the same corresponding position in the initial position (Fig 1) and the protecting position (Fig 3)*); resilient means (42) arranged to urge the sleeve towards its protecting position; a blocking member (110) at least a part of which projects forwardly from the support, the blocking member being movable between a non-blocking position where the blocking member extends generally parallel to the needle axis and the sleeve may slide to its retracted position and a blocking position where the blocking member lies at an acute angle to its non-blocking position (Fig 2, 4; *wherein the examiner notes that the blocking member 114 is disclosed as being resiliently spring biased against the exterior surface 116 of sleeve 40 so that the blocking member resiliently moves between initial, retracted, and protecting positions during use (col 6, lns 24-57). The blocking member 114 is biased against the external surface of the sleeve so that during use its relative position changes - such that because the sleeve has differing outer surface diameters*

*between respective initial and protecting positions the blocking member 114 is disposed at a different acute angle in its protecting position relative to its initial position) so as to be disposed between the support and a part of the sleeve, thereby blocking movement of the sleeve away from its protecting position (Fig 4); and control means (120; wherein the examiner first notes that the applicant has not structurally defined the control means in the claims; secondly, the examiner notes that the surface 120 and the external surface 116 of the sleeve 40 acts as a control means to bias the blocking member (col 6, lns 24-57) during movement between an initial position, retracted position, and the protecting position)) which maintains the blocking member in its non- blocking position during the movement of the sleeve from its initial position to its retracted position but during movement of the sleeve from its retracted position releases the blocking member for movement to its blocking position and on subsequent movement of the sleeve to its protecting position the blocking member will thereafter blocks movement of the sleeve away from its protecting position (Figs 2-4); wherein the blocking member when in its blocking position extends at an acute angle (114 on 110 vs. the needle axis 34; Fig 4) to the needle axis; wherein the blocking member is tubular and when in its non-blocking position is generally co-axial with the sleeve and needle (Figs 2-4); wherein one end of the blocking member when in its blocking position co-operates with a wall portion of one of the support and the sleeve to apply a turning moment to the blocking member about an axis transverse to the length of the sleeve, so moving the second end of the blocking member to block retracting movement of the sleeve (110, 114, 120; Figs 2-4); wherein one end of the blocking member has an off-set boss (114) presenting a non radial face*

projecting towards said adjacent wall portion of said one of the support and the sleeve, whereby on the one end of blocking member being urged towards said adjacent wall portion, the off-set projection applies said turning moment to the blocking member (114 on 120; Figs 4); designed to hold a cartridge (36); having releasable connections (112 and 120, and 108 and 98; Figs 2-4); and helical coil resilient means (42).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson et al in view of Sudnak (4894055). Pearson et al discloses the invention substantially as claimed except for expressly disclosing the support attaching to a hypodermic syringe. Sudnak teaches that it is known to have the support attaching to a hypodermic syringe (Fig 1-2) for the purpose of preventing accidental skin punctures for hypodermic needles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the syringe cartridge as taught by Pearson et al with the hypodermic syringe as taught by Sudnak for the purpose of preventing accidental skin punctures for hypodermic needles.

***Allowable Subject Matter***

9. Claims 30-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

10. Applicant's arguments filed 5/27/2009 with respect to Pearson have been fully considered but they are not persuasive. See italicized discussion above.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW M. GILBERT whose telephone number is (571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/  
Examiner, Art Unit 3767

/Kevin C. Simons/  
Supervisory Patent Examiner, Art Unit 3767